

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 11, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No. 09od-099

OAHU

Amend Prior Board Action of October 9, 2009, Item D-11, Mutual Cancellation of General Lease No. 5382; Issuance of Direct Lease to Waianae District Comprehensive Health and Hospital Board, Incorporated for Health Care and Medical Facilities Purposes, Lualualei, Waianae, Oahu, Tax Map Key: (1) 8-6-1:3

BACKGROUND:

On October 9, 2009, under agenda item D-11, the Board authorized the mutual cancellation of General Lease No. 5382 and issuance of a 65-year lease to Waianae District Comprehensive Health and Hospital Board, Incorporated (WDCHHB) for health care and medical facilities purposes. Pursuant to the Board approval, the annual rent for the new lease is fixed at \$480 with no rental reopening for the entire term. A copy of the approved submittal is attached as Exhibit A.

REMARKS:

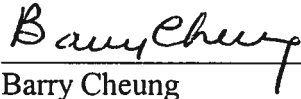
During the preparation of the lease document, staff and the Department of the Attorney General had discussion about the rental reopening issue. For the Board information, \$480 is the minimum rent approved by the Board in 2005 for new dispositions. The \$480 figure was set to cover the staff cost at 2005 level. It is not unreasonable to assume that the staff cost will be increased during the proposed new 65-year term. Therefore, staff recommends the Board amend its prior action by inserting a rental reopening clause for every 10-year in the new lease, which should be able to keep pace with the staff cost. Staff has received no objection from the applicant about this amendment.

Further, WDCHHB is presently responding to a grant condition issued by the federal Department of Health and Human Services, Health Resources and Services Administration. Such grant condition requires the fee owner of the property acknowledges the federal interest on the property. While the federal interest is subordinate to all pre-existing mortgages or obligations recorded against the property, new mortgages and obligations will require prior approval from the federal agency. Subject to Board's approval, WDCHHB will prepare a document to be reviewed by the Department of the Attorney General. Staff has no objection to the request.

RECOMMENDATION: That the Board:

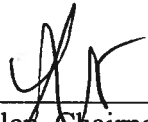
1. Authorize the Chairperson to execute, on behalf of the Board, document(s) acknowledging the federal interest on the property subject to review and approval by the Department of the Attorney General.
2. Amend its prior Board action of October 9, 2009, agenda item D-11 by adding a rental reopening for every 10-year during the 65-year term of the new lease.
3. All terms and conditions listed in its October 9, 2009, agenda item D-11 approval to remain the same.


Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

AMENDED

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 9, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:09OD-099

OAHU

Mutual Cancellation of General Lease No. 5382; Issuance of Direct Lease to
Waianae District Comprehensive Health and Hospital Board, Incorporated for
Health Care and Medical Facilities Purposes, Lualualei, Waianae, Oahu, Tax Map
Key: (1) 8-6-001:003.

APPLICANT:

Waianae District Comprehensive Health & Hospital Board, Inc., a domestic nonprofit
organization, whose mailing address is 86-260 Farrington Highway, Waianae, Hawaii
96792

LEGAL REFERENCE:

Section 171-43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Lualualei, Waianae, Oahu, identified by Tax
Map Key: (1) 8-6-001:003, as shown on the attached map labeled Exhibit A.

AREA:

14.352 acres, more or less.

ZONING:

State Land Use District: Conservation and Urban
City and County of Honolulu LUO: B-2

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

October 9, 2009

D-11

EXHIBIT "A"

CURRENT USE STATUS:

Encumbered by General Lease No. 5382 issued to Waianae District Comprehensive Health and Hospital Board, Incorporated for health care and medical facility purposes expires on October 31, 2037.

CHARACTER OF USE:

Health Care and Medical Facility purposes.

LEASE TERM:

Sixty-five (65) years

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

\$480.00. See Remarks Section.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

Not applicable. See Remarks Section.

PERFORMANCE BOND:

Not applicable. See Remarks Section.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing "

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u> x </u>	NO <u> </u>
Registered business name confirmed:	YES <u> x </u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u> x </u>	NO <u> </u>

APPLICANT REQUIREMENTS:

Not applicable.

REMARKS:

The applicant is the current lessee of General Lease No. 5382 issued pursuant to Section 171-43.1, HRS, for health care and medical facility purposes and the lease expires on October 31, 2037. To cater for the ongoing demand for the health facility, the applicant is planning to make additional improvements on the subject parcel. For that, the applicant would apply for the required funding through the federal economic stimulus program. Under the program, the applicant needs to demonstrate the lease has more than 30 years before expiration. Currently, GL 5382 has about 28 years before expiration. Therefore, the applicant requests the Board mutually cancel GL 5382 and issue a new lease for 65 years in order to enjoy the federal stimulus grant program.

The existing health care facility has been at the subject location since 1994 serving as the only emergency room facility for the leeward side of Oahu. Therefore, the continuance of having the applicant operating the health care facility at the subject location is of paramount importance to the community as a whole.

Applicant has provided evidence of 501(c)(3) status and has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Office of Conservation and Coastal Lands, Department of Human Services, State Historic Preservation Division, and Department of Facility Maintenance have no objections or comments on the proposal.

Board of Water Supply (BWS) indicates that current water supply is adequate for the proposed facility. However, BWS reserved the right to change any position during the building permit application. Applicant does not have any objection to BWS's comment.

Department of Hawaiian Home Lands strongly supports the request because the new improvement will "integrate traditional Native Hawaiian practices with western medicine, health and wellness, and training".

At the time of writing this submittal, Department of Health, Commission on Water Resource Management, and Department and Permitting have not provided responses.

On October 28, 2005 item D-20, the Board amended GL 5382 by stipulating the annual rent of \$480 until October 31, 2037. For the Board's information, performance bond requirement was waived in 1994 when the Board authorized the issuance of GL 5382 to the applicant. Staff recommends the Board authorize the issuance of the new lease at the same term of GL 5382, i.e. annual rent of \$480, no rental reopening and performance bond requirement.

Should the Board approve today request, staff also recommend the Board authorize the mutual cancellation of GL 5382 prior to the issuance of the new lease.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the mutual cancellation of General Lease No. 5382.
3. Upon the mutual cancellation of General Lease No. 5382, authorize the issuance of a direct lease to Waianae District Comprehensive Health & Hospital Board, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current (non-profit) lease document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

Approved As Amended: Land Board Meeting October 9, 2009
D-11

The Land Board amended the staff recommendations by replacing the existing language in Item 1 with the following: "Inasmuch as the Chapter 343 environmental requirements may apply to applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended." Otherwise, the Land Board approved staff's recommendations as submitted.



Subject Location

EXHIBIT "A"